

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Franks et al.  
FOR : USE OF XENON WITH HYPOTHERMIA  
FOR TREATING NEONATAL ASPHYXIA  
SERIAL NO. : Unknown  
FILED : Herewith  
ATTORNEY DOCKET NO. : YOUZ 2 00116

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. §§ 1.56, 1.97, 1.98 and MPEP § 609, applicant(s) submit(s) the following Disclosure Statement concerning art of which the applicant(s) is (are) aware. A copy of PTO-1449 is enclosed herewith.

This Information Disclosure Statement should not be construed to be an admission that any information referred to herein or submitted herewith is "prior art" or is considered to be material to patentability for this invention.

The United States Patent and Trademark Office OG Notice dated 12 October 2004 published a final rule revising 37 C.F.R. 1.98 dealing with the content of Disclosure Statements. Paragraph (a)(2) was revised to read in part, "A legible copy of: (i) Each foreign patent; (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office." Therefore, Applicant(s) has (have) not enclosed copies of the cited U.S. patents and published patent applications with this Information Disclosure Statement.

In accordance with 37 C.F.R. §1.97(g) and (h), the filing of this Information Disclosure Statement should not be construed to mean that a search has been made or that no other material information as defined in 37 C.F.R. §1.56(b) exists.

☐ Under § 1.98(a)(3), a concise explanation of relevance is required for information that is not in the English language. Accordingly, the English language documents have no further explanation.

☐ All of the cited and/or included documents were cited by the Patent Office in a related application(s). A copy of the Search Report is enclosed.

Consideration of the appropriate paragraph(s) indicated below is respectfully requested:

☒ **WITHIN THREE MONTHS OF FILING:** Under § 1.97(b)(1), this Information Disclosure Statement is being filed within three months of the filing date of the application (or date of entry of the national stage). Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ **BEFORE FIRST OFFICE ACTION:** Under § 1.97(b)(3), this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits. Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ **BEFORE FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/WITH STATEMENT:** Under § 1.97(c)(1), this information shall be considered if filed before the mailing date of a final action, or a Notice of Allowance or action that otherwise closes prosecution in the application if accompanied by the statement:

Under § 1.97(e)(1), the undersigned states:

☐ A. that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

☐ B. that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in §1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

☐ **BEFORE FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/WITH FEE:** Under § 1.97(c)(2), this

information shall be considered if filed before the mailing date of a final action if accompanied by a fee in the amount of \$180.00 as required by §1.17(p). Accordingly, the necessary fee accompanies this Information Disclosure Statement, as set forth below.

☐ **AFTER FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSSES PROSECUTION/AND ON OR BEFORE PAYMENT OF THE ISSUE FEE:**

1. Under § 1.97(e)(1), the undersigned states:

☐ A. that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

☐ B. that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in §1.56(c) more than three months prior to the filing of the Information Disclosure Statement; and

2. ☐ the fee in the amount of \$180.00 as required by §1.17(p). Accordingly, the necessary fee accompanies this Information Disclosure Statement, as set forth below.

☐ **PRIORITY CLAIM:** The attached PTO 1449 Form includes all patents, publications, or other information previously cited by or submitted to the Office in one or more prior applications from which the present application claims priority. These one or more prior applications are identified in the papers accompanying the filing of this application.

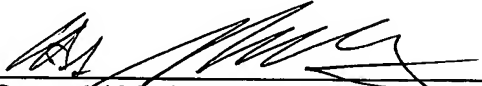
Any payment due for the filing of this Information Disclosure Statement is authorized to be charged to a Credit Card. The appropriate form PTO-2038 is enclosed for this purpose. **If the Credit Card is unable to be charged, please charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.**

It is respectfully requested that the attached document(s) be considered and officially cited in examination of this application.

Respectfully submitted,

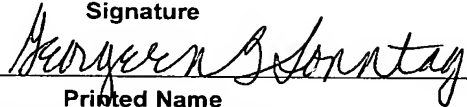
FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP

March 23, 2008  
Date

  
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Scott A. McCollister, Reg. No. 33,961  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2579  
216-861-5582

CERTIFICATE OF MAILING OR TRANSMISSION

I certify that this Information Disclosure Statement and accompanying document(s) are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

<b>Express Mail Label No.:</b> <b>EV 690741424</b>	<b>Signature</b> 
<b>Date</b> <u>March 23, 2008</u>	<b>Printed Name</b> <b>Georgeen B. Sonntag</b>

Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT(S)</b>	<b>Complete if Known</b>										
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Application Number</td> <td style="width: 50%;"></td> </tr> <tr> <td>Filing Date</td> <td></td> </tr> <tr> <td>First Named Inventor</td> <td>Franks</td> </tr> <tr> <td>Art Unit</td> <td></td> </tr> <tr> <td>Examiner Name</td> <td></td> </tr> </table>	Application Number		Filing Date		First Named Inventor	Franks	Art Unit		Examiner Name	
Application Number											
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Sheet 1 of 1	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Attorney Docket No.</td> <td style="width: 50%;">YOUZ 2 00116</td> </tr> </table>	Attorney Docket No.	YOUZ 2 00116								
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### U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.	Document No. Number-Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
	AA	US-2002/0068764	06/06/2002	Franks et al.
	AB	US-		
	AC	US-		
	AD	US-		
	AE	US-		
	AF	US-		
	AG	US-		
	AH	US-		
	AI	US-		

### FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Foreign Patent Document Country Code-Number Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	
	AJ	DE 199 33 704 A1	01/25/2001	Georgieff	<input type="checkbox"/>
	AK	WO 00/53192	09/14/2000	Petzelt	<input type="checkbox"/>
	AL				<input type="checkbox"/>
	AM				<input type="checkbox"/>

### OTHER - NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume issue number(s), publisher, city and/or country where published	
	AN	Chow et al. "Combined neuroprotection by xenon and hypothermia", SOCIETY FOR NEUROSCIENCE ABSTRACT VIEWER AND ITINERARY PLANNER, vol. 2003, 2003, pages Abstract No. 893.1 URL- <a href="http://sf.XP008042249">http://sf.XP008042249</a>	<input type="checkbox"/>
	AO	Jacobs, et al. "Cooling for newborns with hypoxic ischaemic encephalopathy" Internet Article "Online XP002315720, Retrieved from Internet	<input type="checkbox"/>
	AP	Trescher et al. "Brief post-hypoxic-ischemic hypothermia markedly delays neonatal brain injury" BRAIN AND DEVELOPMENT, vol. 19, 1997, pages 326-338, XP008042244, pages 333, 336	<input type="checkbox"/>
	AQ	Goto, et al. "Thermoregulatory thresholds for vasoconstriction in patients anesthetized with various 1-minimum alveolar concentration combinations of xenon, nitrous oxide, and isoflurane", ANESTHESIOLOGY, vol. 91, no. 3, 1999, pages 626-632, XP002315721, page 630	<input type="checkbox"/>
	AR		<input type="checkbox"/>

Examiner Signature		Date Considered	
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